

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

KERRY EUGENE MILLS,

Plaintiff,

v.

JASON BRYANT, Warden
Oklahoma Department of
Corrections,

Defendant.

Case No. CIV-15-619-D

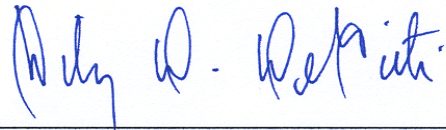
ORDER

Petitioner, a state prisoner appearing pro se, filed the present action seeking a writ of habeas corpus under 28 U.S.C. § 2254. The matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B), (C).¹ The parties briefed their respective positions and, on August 1, 2016, Judge Mitchell filed her Report and Recommendation (R&R) [Doc. No. 22] in which she recommended that the Court grant Petitioner a conditional writ of habeas corpus on Ground Six of his petition (ineffective assistance of counsel). *Id.* at 11.

¹ Judge Mitchell's initial R&R recommended that, pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), the Court abstain from considering the petition, as Petitioner had claims pending in state court [Doc. No. 8]. After the R&R was issued, the state courts denied Petitioner's pending application, thus negating the need for *Younger* abstention. The matter was accordingly re-referred to Judge Mitchell for further proceedings [Doc. No. 13].

In her R&R, Judge Mitchell advised the parties of the right to file objections to the same and directed the parties to file any objections no later than August 22, 2016. The Magistrate Judge further admonished the parties that failure to timely object would constitute a waiver of the right to appellate review of the factual and legal issues addressed in the Report and Recommendation. The deadline for filing objections has expired and to date, neither party has filed objections or sought an extension of time in which to do so. Accordingly, the R&R [Doc. No. 22] is **ADOPTED** as though fully set forth herein. A judgment shall be issued accordingly.

IT IS SO ORDERED this 9th day of September, 2016.



TIMOTHY D. DEGIUSTI
UNITED STATES DISTRICT JUDGE